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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/567,478

06/26/2006

Marcus Nystrom

39642

9178

116 7590 03/24/2009

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EXAMINER

MICHALSKI, SEAN M

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

03/24/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/567,478	<b>Applicant(s)</b> NYSTROM, MARCUS	
	<b>Examiner</b> SEAN M. MICHALSKI	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 7-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/13/2008</u>  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 10/13/2008 has been considered.

### ***Claim Objections***

2. Claims 7-11 are objected to because of the following informalities: They are not present in the listing of claims submitted on 12/10/2008 making the amendments non-responsive under the provisions of 37 CFR 1.121 (c ) requiring that the text of claims, even withdrawn claims be shown, and all claims ever presented be listed in the submission. As this appears to be A bona fide attempt at a compliant response examiner will overlook the requirement of 37 CFR 1.121 (c ) to ensure a compact prosecution. Further responses which do not list all claims as required by 37 CFR 1.121 (c ) will be held non-responsive.

### ***Claim Rejections - 35 USC § 112***

3. Applicant's cancellation of the questioned material of claim 4 renders moot the rejection under 35 USC §112 thereof.
4. The clarification of the scope of "in an axial direction" as requested clarifies the scope necessary and as such examiner withdraws the previous rejection of claims 1-6 under 35 USC §112 second paragraph.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugihara (US 5,522,141) as set forth in the previous action and as set forth below and in view of Fogle (US 7,000,324).

Sugihara discloses a trimmer head (figure 65, at least) comprising at least two eyelets (10 figure 65) and a bobbin (8 figure 65) with at least two sections (clearly shown in figures 2, 10 and 65, at least) for storing of one cutting filament (11) in each section (see figure 2; column 14 line 5 "cords" ) said eyelet (10, figure 65) is placed in a housing (4 figure 65) surrounding the bobbin, characterized in that the eyelet (10) is provided with an opening (see figures 2 and 10) for the cutting filament, said opening is extending in axial direction of the trimmer head (*the opening is a three dimensional void, which extends in all three dimensions, **including axial**, radial, and bi-normal to those defined axes*) so that the opening provides access to all sections (see figures 2, 10 and 65; each eyelet is symmetrical, and disposed symmetrically relative to each of the two storage sections) for storing of cutting filaments and that one side of the opening (the opening is circular) has a groove (a side portion of the opening constitutes a groove, since it is groove like in shape at least in the radial direction) shaped so that the cutting filament (11) is placed in the groove when the trimmer head rotates in the intended direction (when the rotary cutter rotates, the filament will be pushed to one lateral side of the opening, this lateral portion thereof constituting a groove) so that the cutting filament is placed in the groove by the forces generated by the rotation no matter of which section of the bobbin the filament is stored in (this is clear because of the

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symmetry of the two openings, and their relative symmetry with both the upper and lower sections of the bobbin--in other words it is clear that the filament shown running from the top section to one opening could be just as easily pulled from the lower section, and vice versa, since the entire arrangement is clearly symmetrical).

Regarding claim 2, Sugihara discloses that the eyelets (10) are placed around the same axial position on the trimmer head housing so that the cutting filaments will rotate in the same plane around the trimmer head (see at least figures 2, 10 and 65).

Regarding claim 3, Sugihara discloses a fragment of wall, as clearly seen in figures 2, 10 and 65.

Regarding claim 4 there is inherently a locking device for securing each filament within it's respective section. Otherwise the filaments would fly out and not work.

Regarding claims 5 and 6 Sugihara clearly discloses two eyelets and two filaments.

Sugihara fails to disclose a non-circular opening.

Fogle discloses an outlet/opening which is non-circular, it approximates the shape of a rectangle as seen in figures 4 and 5a.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a non-circular opening with a first and second end such as that disclosed by Fogle, since using a differently shaped opening does not change the function of the device, would work just as well, and would be recognized as performing an equivalent function to a circular opening, as seen when comparing Fogle and Sugihara.

### ***Response to Arguments***

7. Applicant's cancellation of the questioned material of claim 4 renders moot the rejection under 35 USC §112 thereof.

8. The clarification of the scope of "in an axial direction" as requested clarifies the scope necessary and as such examiner withdraws the previous rejection of claims 1-6 under 35 USC §112 second paragraph.

9. Applicant's arguments with respect to the 102 rejections of claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Regarding applicants interpretation of a "groove" it is far too narrow, and is clearly met by the art cited. The standard of claim interpretation during prosecution is as follows: "claims in a pending application should be given their broadest reasonable interpretation" consistent with the specification and prior art. In re Pearson , 181 USPQ 641 (CCPA 1974). See additionally MPEP 904.01, and also In re Morris, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997). It has been established that during examination, where applicant has the ability to amend claims, the standard of claim interpretation is that the broadest reasonable interpretation be given to all the terms of a claim, *absent a specific definition provided in the specification*, which would then control.

Examiner points out that a Circle does in fact have a first and second end, the limitation "having a first and second end" applies to any real world object. Every object has at least a left and right end. The filament, even in a pure circle will move to one end of the circle when the device is rotated, and thus the claim has fully been met.

### ***Conclusion***

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10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SEAN M. MICHALSKI whose telephone number is (571)272-6752. The examiner can normally be reached on M-F 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sean M Michalski/  
Examiner, Art Unit 3724

/Kenneth Peterson/  
Primary Examiner, Art Unit 3724